



Dan Skopec  
Acting Secretary

# California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control  
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment  
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger  
Governor

Certified Mail: 7000 0600 0027 1155 1799

April 21, 2006

Mr. Jess Montoya, Director  
Nevada County Community Development Agency  
950 Maidu Avenue  
Nevada City, CA 95959

Dear Mr. Montoya:

The California Environmental Protection Agency (Cal/EPA), the Office of Emergency Services, the State Fire Marshal, the State Water Resources Control Board, and the Department of Toxic Substances Control conducted a program evaluation of Nevada County Environmental Health Certified Unified Program Agency (CUPA) on May 11 and 12, 2005. The evaluation consisted of a review of program elements, an in-office program review and field inspections. Following the evaluation, the state evaluators completed an Evaluation Summary of Findings, which was reviewed with your agency's program management.

The evaluation summary of findings includes identified deficiencies, corrective action to be taken and timeframes for correction of identified deficiencies. Two additional evaluation documents completed during the evaluation are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

I have reviewed the enclosed copy of the Summary of Findings and I find that Nevada County Environmental Health's program performance is unsatisfactory with improvement needed. To update our files on your progress toward correcting the identified deficiencies, please provide a status report, using the attached format, within 30 days from receipt of this letter.

Staff compared the current listing of deficiencies with the CUPA's 2002 Evaluation and found that they were the same. While the evaluation team notes improvement since 2002, the program continues significantly out of compliance with state standards. Pending the information contained in the status report from above, a Program Improvement Agreement (PIA) will be required to ensure that all deficiencies are addressed in a timely matter. Jim Bohon, Unified Program Manager, will contact you after review of the status report to initiate the PIA process.

Mr. Jess Montoya

April 19, 2006

Page 2

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,



Don Johnson

Assistant Secretary

California Environmental Protection Agency

Enclosures

cc: Larry Sage, Director  
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Mr. Jess Montoya

April 19, 2006

Page 3

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## Deficiencies and Corrective Actions

1. Deficiency: Brief description of deficiency  
CUPA Corrective Action: CUPA responds here
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CUPA Corrective Action: CUPA responds here



STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY



Alan C. Lloyd, Ph.D.  
Agency Secretary

**CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION  
SUMMARY OF FINDINGS**

Arnold  
Schwarzenegger  
Governor

**CUPA: Nevada County Environmental Health**

**Evaluation Date: May 10<sup>th</sup> and 11<sup>th</sup>, 2005**

**EVALUATION TEAM**

**Cal/EPA: Dennis Karidis**  
**SWRCB: Terry Snyder**  
**DTSC: Mark Pear**  
**OES: Fred Mehr**  
**OSFM: Francis Mateo**

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management.

Questions or comments can be directed to Dennis Karidis at 916-327-9558.

	<b><u>Deficiencies</u></b>	<b><u>Preliminary Corrective Action</u></b>	<b><u>Timeframe</u></b>
1	The CUPA has not inspected all businesses subject to the Business Plan, CalARP, and Hazardous Waste programs. During the fiscal year 2003-2004, the CUPA inspected 21% of the Business Plan facilities, 0% of the CalARP facilities, and 15% of the Hazardous Waste generators. During fiscal year 2002-2003, the CUPA inspected 20% of the Business Plan facilities, 0% of the CalARP facilities, and 14% of the Hazardous Waste generators.	The CUPA hired a counter technician which has freed up some additional professional staff time. An additional 0.5 FTE is also in the budget for the CUPA program for the 2005-2006. However, it still needs to be passed by the board of supervisors. If passed, the position would be filled after July 1 <sup>st</sup> , 2005.	November 1 <sup>st</sup> , 2005
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2	<p>The CUPA is not assessing or collecting the CalARP surcharge from the 9 stationary sources in Nevada County. Although the CUPA has been assessing and collecting local fees from these CalARP stationary sources, they have not assessed or collected the CalARP surcharge from these regulated businesses.</p>	<p>The CUPA will begin assessing the state surcharge on all CalARP facilities immediately.</p>	<p>Immediately</p>
3	<p>The CUPA has not ensured that businesses, found to have minor violation, are submitting certifications that indicate the business' return to compliance within the mandated 30 day timeframe. Documentation certifying the businesses return to compliance was not found in any of the administrative files reviewed.</p>	<p>The CUPA will now begin distributing return to compliance forms to all businesses found to have minor violations. Copies are currently ready for distribution.</p>	<p>Immediately</p>
4	<p>The CUPA has not completed any annual self audit reports since they were certified by Cal/EPA. However, the evaluation team found useful information in the County's proposed 05/06 budget document that summarized the CUPA's accomplishments in the prior year and their work objectives for the upcoming fiscal year.</p>	<p>Complete a self audit for 2004 – 2005 according to the required elements in Title 27.</p>	<p>September 30<sup>th</sup>, 2005</p>
5	<p>The CUPA is not adequately tracking information, which is necessary to accurately complete the annual state summary reports. Currently the CUPA pieces information together collected by inspectors to complete the summary reports. This has led to some inconsistencies in the summary report data. For example:</p> <ul style="list-style-type: none"> <li>On summary report 3 for the 2003-2004 FY, the CUPA reported 1 CalARP facility. The CUPA actually has 9.</li> <li>On summary report 4 for the 2003-2004 FY, the CUPA reported 0 civil or criminal referrals. However, the CUPA has 6 cases currently pending with the District Attorney and Circuit Prosecutor.</li> </ul>	<p>The Environmental Health department has been approved for a new data management system. Selection of the type of system is to be completed by August 2005. Installation of the software is to be completed by March 2006. The system is to be fully functional by June 2006.</p>	<p>June 2006</p>

6	The CUPA's operating permit does not contain all the required conditions. Permits do not have a statement indicating that the monitoring, response, and plot plans are to be maintained on site.	The CUPA will change the permit template and update existing permits as they are reissued or updated.	Template – 30 days Permits - ongoing
7	The files do not contain current UST operating permits. The permits in two files reviewed had expiration dates from 2003. Another permit was issued for tank installation only (no other related parts to be installed), with no expiration date. Permits are issued when fees are paid. The CUPA stated that all permits are current.	The CUPA will change the permitting procedure to ensure that the approved permits are filed with the CUPA as they are issued.	Ongoing
8	<p>The CUPA is not ensuring that businesses certify, at least once every three years, that they have reviewed and updated the Business Plans. Four out of ten business plans and corresponding administration record files reviewed (NC Airport Air Park, NC WWTP, Agate Sales Inc., Milhous Ranch) contained no such certifications.</p> <p>In addition, the CUPA is not ensuring that each business annually submits its hazardous materials inventory or a certification statement on or before March 1 to the CUPA or AA and local fire agencies. Three out of ten business plans and corresponding administration record files reviewed (NC Airport Air Park, NC WWTP, Agate Sales Inc.) did not have current inventories or certification statements..</p>	<p>An additional 0.5 FTE is also in the budget for the CUPA program for the 2005-2006.</p> <p>The Environmental Health department has been approved for a new data management system which should help in tracking program compliance.</p>	6 Months
9	The CUPA is not regulating agricultural handlers under the Business Plan Program. The CUPA has indicated that an agreement exists with the Agricultural Commissioner to regulate such handlers. However, no such agreement could be produced.	Obtain a new agreement with Ag. Commissioner and provide them training.	1 Year

10	The CUPA has not established or implemented a CalARP dispute resolution process.	Establish and implement a CalARP resolution process.	3 Months
11	<p>The CUPA has not taken appropriate enforcement for violations found at Odyssey Metalworks. Formal enforcement was not taken for a Class I violation and repeat Class II violations. The facility file for Odyssey Metalworks was reviewed and the following was found:</p> <ul style="list-style-type: none"> <li>• The facility was inspected on 9/3/03 and the following violations were found. No Business Plan on file, No EPA ID#, No waste determination (Class II), and illegal disposal (Class I).</li> <li>• An inspection was also conducted on 4/21/04 and the following violations were found. No approved secondary containment, improper waste determination on manifest (Class II), improper labeling, improper management of drums, no spill control and decontamination equipment.</li> <li>• It appears that the business may be treating the hazardous waste prior to disposal without a permit.</li> <li>• The file did not contain documentation demonstrating that the business returned to compliance.</li> </ul>	The CUPA will initiate the appropriate enforcement.	Immediately

CUPA Representative

Tracy Gidel  
(Print Name)

Tracy Gidel 4-706  
(Signature)

Evaluation Team Leader

Johnanne  
(Print Name)

[Signature]  
(Signature)



## **PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

1. **Observation:** The business plans are in 3-ring binders, organized alphabetically by business name and are stored in shelves. While a separate set of related files, called "Administrative Files" are kept in manila folders and are located in a separate place (a common filing room). The files contain the initial business plan information and any record of what occurred after the initial submission. These are filed by street address.

**Recommendation:** The files should be consolidated and kept in one location to avoid confusion, and loss.

2. **Observation:** Three agency files reviewed have loose documents that were not secured. This may result in loss of records and documents not being filed in chronological order.

**Recommendation:** The SWRCB recommends that all documents be secured to prevent loss and maintain chronological organization. Large, thick documents may be filed in separate folders, as is the current CUPA practice.

3. **Observation:** The CUPA's website page titled Underground Storage Tank Programs has a subtitle for Links to Other Helpful Sites that includes a link to the Central Valley Regional Water Quality Board (CVRWQB) web site. The link did not work.

**Recommendation:** The SWRCB recommends that this web site link be updated and that the user be directed to the SWRCB's UST Program site at [www.waterboards.ca.gov/ust/](http://www.waterboards.ca.gov/ust/). The UST web site contains a link to the CVRWQB web site and most of the UST system information that the public would find relevant or necessary for the success and compliance of these regulatory programs.

4. **Observation:** The inspection reports reviewed lacked detailed observations made at the site.

**Recommendation:** Observations necessary to fully understand the regulated activities at the site should be noted in the inspection report. Examples of observations which may be noted in inspection reports include the types of paperwork reviewed, alarms or sensors tested, dates noting changes in operation or testing, names of process areas visited, and information provided by the facility regarding decisions they have made that affect the regulation of a material or waste. Observations need not be lengthy to convey important information.

5. **Observation:** The CUPA does not commonly access DTSC's Hazardous Waste Tracking System.

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**Recommendation:** Please begin accessing the Department's Hazardous Waste Tracking System for future generator inspections to determine waste profiles and generation status from previous manifests sent. In addition, please review the print out provided to Nevada County Environmental Health Department listing active facilities within its jurisdiction that have applied for permanent EPA ID numbers and compare it to your own database. A discrepancy exists between the state's database indicating 318 hazardous waste generators in county, and the Nevada County Health Department's database indicating a total of 239 facilities according to the last Annual Inspection Summary Report submitted for fiscal year 2003/2004.

6. **Observation:** With regard to the April 1, 2004 inspection of Z.A.P. Manufacturing, Inc. in Grass Valley, CA, the inspector observed that the operator, Tim Corkins, allowed the discharge of waste water from a final pressure rinse, which is the last stage of the manufacturing process, into a storm drain at the site. In order that the facility avoids any further enforcement action, Nevada County directed ZAP to immediately cease this discharge under the Nevada County General Code, Chapter IV, Article 8.

**Recommendation:** A sample should have been obtained and analyzed in order determine whether an illegal disposal of a hazardous waste had been occurring at the site.

7. **Observation:** During the inspection, the inspector failed to determine whether it was permissible for the operator to contaminate his used oil with other hazardous waste, i.e., Chevron 132 Mineral Spirits from the parts washer, rather than manifest it off site as a separate hazardous waste stream in accordance with HSC 25250.7. The CUPA has informed the facility and they are now aware of the requirements.

**Recommendation:** None provided.

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. The CUPA has made improvements in their implementation of the Unified Program since the Evaluation Team's last visit in December of 2002. Plans for additional improvement as described in Nevada County's Budget represent continued steps in the right direction.
2. Hazardous materials facilities "business plans" are now being posted to a secure DocuShare site and all fire departments within the county have been provided password access for emergency response. (This allows fire departments to access site facility plans that show the location and identity of stored hazardous materials.
3. Permitted facilities including hazardous materials have been plotted on a secure GIS layer for access by law enforcement, emergency response personnel, and EH for purposes of responding to hazardous materials spills or bio-terrorism events.
4. Forms and permit process flow charts have been updated and made available from the Agency website, making user information more easily available to the public.
5. The CUPA is meeting with the Circuit Prosecutor on a monthly basis regarding enforcement issues in Nevada County. Currently 6 cases are pending action with the Circuit Prosecutor and District Attorney's Office.
6. The CUPA attends the following meetings: Regional CUPA Forum Board, AEO TAG, Local Fire Chiefs, and the Sierra Nevada Emergency Council.
7. The CUPA has laid out an action plan for implementation of the AEO process that includes the following:
  - Establish a fines and penalties matrix consistent with surrounding rural counties by August 2005.
  - Present the Administrative Enforcement Order process overview to the Board of Supervisors, and obtain their approval of the fines and penalties matrix by October 2005.
  - Notify by February 2006 all businesses with outstanding hazardous materials violations, informing that failure to comply with State hazardous materials regulations will result in an Administrative Enforcement Order.
  - Issue Administrative Enforcement Orders to most egregious outstanding hazardous materials violators by June 2006.
8. The CUPA has begun to use new inspection report/checklists for USTs, BPs, and HWGs. It includes the elements found in the Unified Program Inspection Report Writing Guidance.
9. By a commitment to enforcing the new regulation, the CUPA has received the UST owner Statement of Understanding and Compliance that includes certifications by Designated Operators.

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

10. Mr. Mike Mack, a contractor and land owner, violated a judge's order for a general clean up of his property according to Tracy Gidel. Abandoned vehicles, waste oil, lead acid batteries, solid waste, paints, oils, and lubricants were described to be in storage at the property. Stains were observed on the ground. Materials were taken to a Household Hazardous Waste Collection Center by the county. Mr. Mike Mack was finally jailed for refusing to comply with the judge's order.